

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

BRANDA PEEBLES and JOSHUA BERGER,  
individually, and on behalf of ALL OTHER  
SIMILARLY SITUATED,

Plaintiffs,

v.

JRK PROPERTY HOLDINGS, INC., STEVENS  
POND APARTMENTS PROPERTY OWNER, LLC,  
and ONE WEBSTER APARTMENTS PROPERTY  
OWNER, LLC,

Defendants.

Case No. 1:23-cv-10523-NMG

**PLAINTIFFS BRANDA PEEBLES' AND JOSHUA BERGER'S CROSS-MOTION FOR  
SUMMARY JUDGMENT AS TO LIABILITY ON ALL COUNTS OF THEIR  
COMPLAINT**

Plaintiffs Branda Peebles and Joshua Berger, Individually, and on Behalf of All Others Similarly Situated, herein cross move for Summary Judgment as to liability on all counts of their Complaint. As discussed in Plaintiffs' opposition to Defendants' Motion for Summary Judgment, entering Summary Judgment for Plaintiffs is proper because the undisputed facts reveal that Defendants included in their leases a provision contrary to M. G.L. c. 186, § 15B, which entitles Plaintiffs to recovery under M. G.L. c. 186, § 15B and M. G.L. c. 93A, § 9.

Plaintiffs' motion for summary judgment motion should be granted. Defendants' argument can be summed up as "no harm, no foul." It is based on the false premise that Defendants' "Move-Out Addendum" did not violate the security deposit law, MGL c. 186, §15B and cause the Plaintiff class to incur actionable c.93A, § 9 injuries.

Contrary to Defendants' premise, the "Move-Out Addendum," was in derogation of tenants' rights and lessors' duties detailed in the security deposit statute. In violation of MGL c.

186, § 15B, the Addendum: 1) required tenants to do what they were not legally required to do, namely, “professionally clean” their unit before “move-out”; and 2) the failure of the tenant to carry out that obligation, contractually entitled Defendants to do what the statute prohibited them from doing, namely, make deductions from renter’s deposits to remedy conditions resulting from “reasonable wear and tear.” This invasion of the Tenant class’s interests was exacerbated by the undisputed fact that security deposit deductions were made by untrained staff who had no “standard” by which they could distinguish between what was “reasonable” or “excessive” “wear and tear.” Therefore, Defendants were incapable of providing to the tenant class the required report that stated “under oath,” in “precise detail,” the “itemized list” of the “damages” that were lawfully deducted.

These undisputed acts constituted a class-wide invasion of the tenant class’s legally protected interests. The unlawful acts placed substantial obstacles deterring the Tenant’s exercise of their rights, by imposing unlawful contractual provisions that attempted to waive the Lessor’s statutory obligations regarding security deposit deductions, and the return, on an *informed* basis, of Tenant’s deposit free of unlawful deductions. In addition, these unfair and deceptive acts, caused some class members, like Plaintiffs Peebles and Berger, to also “lose money” from improper deposit deductions. Peebles lost money from clearly unlawful deductions for “reasonable wear and tear,” and Berger from the otherwise lawful deduction for an unpaid utility charge, made unlawful by the inclusion of the non-compliant lease provisions that attempted to waive Lessor’s obligations.

In support of their cross motion for summary judgment, Plaintiffs rely on their opposition to Defendants’ motion for Summary Judgment, Plaintiffs’ response to Defendants’ statement of facts, the record pleadings, and Plaintiffs’ additional statement of facts.

WHEREFORE, Plaintiffs Branda Peebles and Joshua Berger, Individually, and on Behalf of All Others Similarly Situated, request that this Court grant summary judgment to plaintiffs as to liability all counts of their Complaint.

Respectfully Submitted By,

BRANDA PEEBLES & JOSHUA  
BERGER, INDIVIDUALLY AND  
ON BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,  
By their Attorneys,

/s/ *Keith L. Sachs*

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Dated: April 29, 2024

#### CERTIFICATE OF ELECTRONIC SERVICE

Plaintiffs' counsel certifies that a copy of this document was served on counsel for Defendants by electronic filing in the Court's ECF electronic filing system.

Dated: April 29, 2024

By their Attorney,

/s/ *Keith L. Sachs*

Keith L. Sachs (BBO# 634025)